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Docket No.: NY-LUD 5253-US5-DIV
(PATENT)

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Dated: 5/2/08

Signature: Eileen Sheffield

(Eileen Sheffield)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Thierry Boon-Falleur et al.

Application No.: 08/819,669

Confirmation No.: 1995

Filed: March 17, 1997

Art Unit: 1644

For: TUMOR REJECTION, ANTIGEN
PRECURSORS, TUMOR REJECTION
ANTIGEN S AND USES THEREOF

Examiner: P. Gambel

PETITION TO WITHDRAWN TERMINAL DISCLAIMER
(37 CFR §1.182, MPEP 1490 (VII))

MS: Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to the above-referenced provisions of 37 CFR and the MPEP, applicant hereby petition for withdrawal of the terminal disclaimer filed in this application for U.S. Patent No. 5,843,448.

Please charge any fees due herewith to Deposit Account No. 50-0624.

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CENTRAL FAX CENTER**MAY 02 2008**

Docket No.: NY-LUD 5253-US5-DIV

Application No. 08/819,669
Amendment dated November 19, 2007
Reply to Office Action of October 23, 2007

FACTS

On December 6, 2006, the Examiner rejected the claims of this application on double patenting grounds, in view of U.S. Patent No. 5,843,448.

The '448 patent issued with the incorrect assignees on its face. The record of its prosecution indicates, however, that the patent was co-owned. As such an obviousness-type double patenting rejection, and a terminal disclaimer are not appropriate. Please see the assignment documents from the parent application, i.e., U.S. Patent No. 5,541,104, indicating that there are two assignees, one of whom (Cornell Research Foundation, Inc), is NOT an assignee of the current application. In short, co-ownership does not exist.

When there is no co-ownership, a terminal disclaimer is not proper, because an obviousness type double patenting rejection is not proper.

In view of the foregoing, it is requested that the Terminal Disclaimer filed over U.S. Patent No. 5,843,448, be WITHDRAWN.

Dated: 5/2/08

Respectfully submitted,

By 

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